



Australian Government

AUSTRAC

AUSTRAC Industry Contribution 2018–19

STAKEHOLDER CONSULTATION PAPER

“ A FINANCIAL SYSTEM **FREE**
FROM CRIMINAL ABUSE ”

Contents

Purpose of this paper	2
Consultation process	3
Introduction.....	4
Section 1 – Strategic direction and budget allocation	5
Section 2 – AUSTRAC Industry Contribution for 2018–19	16
Invoicing for the 2018–19 financial year	20
Ministerial Determination	21
Attachment 1: Draft Ministerial Determination.....	22
Attachment 2: Draft Explanatory Statement to the Ministerial Determination.....	27
STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS	32

Purpose of this paper

The purpose of this paper is to outline the proposed arrangements for the AUSTRAC Industry Contribution for the 2018–19 financial year.

The current industry contribution levy arrangements were introduced in the May 2014 Federal Budget, and commenced from the 2014-15 financial year. The industry contribution is a levy on AUSTRAC reporting entities to recover the costs of AUSTRAC's regulatory and financial intelligence functions.

From 2016–17, AUSTRAC's activities as Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regulator and financial intelligence unit are funded in full through the collection of the AUSTRAC industry contribution.

The 2018–19 financial year is the fifth year of the industry contribution. As in previous years, AUSTRAC is committed to consulting on the industry contribution model prior to requesting the Minister for Law Enforcement and Cyber Security to make a final levy determination.

In response to the stakeholder consultation processes in prior years, AUSTRAC remains committed to enhancing the transparency of the industry contribution processes and to communicating effectively with leviable entities about:

- the anticipated amount to be collected from reporting entities for the 2018–19 financial year
- a projected estimate of the levy components for the 2018–19 financial year, and
- how AUSTRAC's annual budget allocation is to be expended for the 2018–19 financial year.

Consultation process

AUSTRAC invites stakeholders to make submissions on the proposed arrangements for the 2018–19 industry contribution levy.

By email to: Policy_Consultation@austrac.gov.au

By mail to: Consultation – AUSTRAC Industry Contribution
Policy and Guidance Section
PO Box 13173, Law Courts
MELBOURNE VIC 8010

Submissions should include the name of your organisation (or your name if the submission is made as an individual); contact details for the submission, including an email address and contact telephone number where available.

The closing date for submissions is Friday 22 June 2018.

All submissions, and the names of persons or organisations which make a submission, will be treated as public and may be published on AUSTRAC's website, unless the author clearly marks the submission as 'confidential'. A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act.

Introduction

The industry contribution funds AUSTRAC's activities as Australia's AML/CTF regulator and financial intelligence unit.

The industry contribution is calculated to recover AUSTRAC's operating costs, including amortisation and annual depreciation costs of assets used by AUSTRAC in undertaking its regulatory and intelligence activities.

Further background and other relevant information about the industry contribution, including the calculation model, can be found on the [AUSTRAC industry contribution page](#) of the AUSTRAC website.

Section 1 of this paper provides an overview of AUSTRAC's strategic direction and details on how AUSTRAC's annual budget allocation is to be expended for the 2018–19 financial year.

Section 2 of this paper outlines the proposed arrangements for the AUSTRAC Industry Contribution for the 2018–19 financial year.

Section 1 – Strategic direction and budget allocation

AUSTRAC's core functions

AUSTRAC's vision: A financial system free from criminal abuse

AUSTRAC is Australia's financial intelligence unit and AML/CTF regulator. AUSTRAC strives to be a global leader in AML/CTF and is the primary source of financial intelligence in Australia.

AUSTRAC's purpose is to build resilience in the financial system and use financial intelligence to disrupt money laundering, terrorism financing and other serious crime.

AUSTRAC oversees the compliance of more than 14,000 regulated entities with their obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and administers the *Financial Transaction Reports Act 1988* (FTR Act). AUSTRAC's regulated population spans a diverse range of industry sectors including financial services providers, gambling services, bullion dealers and remittance service providers, and commencing from 3 April 2018, digital currency exchange providers.

Over the past year AUSTRAC has continued to adapt its business operations in order to improve the efficiency, effectiveness and sustainability of the agency. AUSTRAC recognises the need to continue to evolve in order to meet future demands and to keep pace with criminal activities, technology and a dynamic operating environment.

The [AUSTRAC corporate plan 2017–21](#) describes how AUSTRAC will deliver on the expectations of Government, industry partners and the broader Australian community in protecting the economy and Australians from the adverse impacts of money laundering and terrorism financing.

AUSTRAC's strategic direction

Over the period 2018-19, AUSTRAC will continue to build and consolidate on its considerable achievements during 2017-18.

In the 2017-18 financial year, AUSTRAC undertook or was involved in a number of key initiatives, which were designed and developed to assist the regulated population, create regulatory efficiencies and build on and enhance collaboration. In a continuation of the approach adopted in 2016-17, these initiatives are based on the premise of using financial intelligence as a key driver to shape AUSTRAC's compliance and regulatory activities. This has melded AUSTRAC's two core functions (i.e. regulatory and financial intelligence) and harnessed the linkages between the two in a way that improves the outcomes for both.

The initiatives and their ongoing progress are outlined below.

Fintel Alliance

In recognition of the calls from industry for greater collaboration and integration of intelligence activities, AUSTRAC has established a national centre of excellence for financial intelligence, known as the Fintel Alliance. Launched in March 2017, Fintel Alliance brings together government, industry, and international partners in a collaborative approach in countering ML/TF through enhanced

information and intelligence sharing arrangements. The Fintel Alliance leverages its private / public partnership capabilities by undertaking operational intelligence programs in a shared physical environment housed in the AUSTRAC's offices. The Alliance's risk modelling and operational targeting work is heavily dependent on the financial data contained in the more than 100 million transaction reports AUSTRAC receives from industry each year.

The Fintel Alliance's continued success is reliant on broadening its participation base through increased membership and information distribution. Since its commencement, Fintel Alliance has steadily strengthened its operational base and currently hosts 19 private and public partners, including AUSTRAC, the AFP, NSW Police, the ATO, Australian Banks – ANZ, Commonwealth, Macquarie Bank, National Australia Bank, Westpac, Western Union and PayPal. The UK National Crime Agency has joined the Fintel Alliance, and AUSTRAC is in discussions with other potential international partners.

The Fintel Alliance now comprises two hubs: an Operations Hub and an Innovations Hub.

- The Operations Hub enables Government and industry intelligence analysts to work side-by-side in joint operational projects, sharing information in near real-time. To date, Fintel Alliance has completed or is currently working on thirteen collaborative intelligence operations. For example, below are four operations undertaken in over the past 12 months:
 - examining the Panama Papers
 - identifying and profiling online money mules
 - identifying and profiling purveyors and distributors of child exploitation material, and
 - improving knowledge and enhancing reporting of suspicious financial activity pertaining to entities in the not-for-profit sector.
- The Innovations Hub provides a suite of virtual and/or physical spaces where Fintel Alliance partners collaborate, co-design and test new and innovative solutions to common problems – technology, legislative or regulatory.

Activities in the Operations Hub will enable partners to identify innovative and technology options to overcome obstacles to information sharing, and deal with the intelligence and regulatory challenges and opportunities created by new and disruptive business models entering the market. In 2018-19, AUSTRAC will continue to enhance and mature the Fintel Alliance to share actionable intelligence between industry and government across a broad spectrum of threats, including terrorism financing, tax avoidance, drug trafficking and cybercrime.

The capabilities of Fintel Alliance will improve as partner relationships mature. This will enhance AUSTRAC's skills and knowledge, and facilitate a unified approach to delivering projects that are agile and responsive to real needs. The quantity and quality of the data we use in our daily work will grow significantly and be shared with partners in near real-time. This will help us adapt and respond to challenges and risks to our operating environment.

Financial intelligence

AUSTRAC is currently exploring a suite of commercial off-the-shelf analytical tools to meet the unique requirements of its internal and external stakeholders.

AUSTRAC has introduced a world first and innovative Financial Intelligence Analyst Course (FIAC). The course was developed with input from law enforcement agencies, industry, academia and the US Financial Crimes Enforcement Network (FinCEN) and has been rolled out to AUSTRAC staff and intelligence practitioners from our public and private sector partners.

Industry outreach

AUSTRAC remains committed to strengthening its working relationships with leaders in the financial industry in order to establish collaborative partnerships to effectively detect, deter and disrupt serious crime. The closer engagement and collaboration with industry in combating money laundering and terrorism financing is complemented by the work undertaken through the Fintel Alliance.

AUSTRAC implemented a new approach to understanding and communicating ML/TF risks in Australia through the ongoing development and provision of sector and product risk assessments. These risk assessments combine expertise from the financial sector with law enforcement and AUSTRAC information. The outcomes and insights contained in the completed risk assessments are being utilised to expand and enhance AUSTRAC's guidance to industry for the purposes of building our regulated population's understanding and knowledge of ML/TF risk. The assessments also highlight how the AML/CTF toolkit can be more effectively used to identify, mitigate and manage ML/TF risk.

Further information is contained in the Risk Assessments section below.

AUSTRAC continues to engage private sector entities operating in the innovation and financial technology (FinTech) spaces. AUSTRAC has established a dedicated webpage that is designed to enable FinTechs and other start-ups to engage directly in understanding the compliance and reporting obligations under the AML/CTF regime. In order to provide further support to FinTechs that are reporting entities, AUSTRAC has established a dedicated team to understand the RegTech and AML Service providers operating in Australia and to identify ways in which those providers can assist us with delivering our vision. AUSTRAC recognises the important role they play in the broader AML/CTF community.

Smarter regulation

In 2016, AUSTRAC commenced a review and re-design of its regulatory model under the 'Smarter Regulation' program.

In order to deliver this program, AUSTRAC has made a number of changes to its operating model. Throughout the 2017-18 financial year, AUSTRAC significantly enhanced its risk-based approach to supervision and realigned its resources to identify and target the ML/TF risks and threats affecting its regulated population. An essential component of this approach included establishing a dedicated regulatory intelligence capability that identifies, prioritises and triages ML/TF regulatory risks.

AUSTRAC has formed a dedicated industry engagement and capability development team focussed on building knowledge within industry of the ML/TF risks the industry faces and to increase industry capability to manage and mitigate those risks.

AUSTRAC continues to invest in and grow its audit and inspection capability to monitor, test and improve industry's compliance with its AML/CTF obligations.

All of this work will improve Australia's AML/CTF compliance and supervisory activities and AUSTRAC's ability to partner with industry to strengthen the financial system against criminal exploitation. This includes the ability for AUSTRAC to better prioritise regulatory and enforcement activities, inform the development of regulatory responses and evaluate success. This work will also respond to areas of improvement suggested in the Mutual Evaluation Report and assist in enhancing AUSTRAC's understanding of the intersection between crime threats and compliance risks.

Review of the AML/CTF Act

In December 2017, the Australian Parliament passed the first phase of reforms arising from the statutory review of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), the Regulations and the Rules. The reforms came into effect on 3 April 2018 and included the following items:

- expanding the objects of the AML/CTF Act by including additional objects to articulate the domestic objectives of AML/CTF regulation;
- regulating digital currency exchange service providers;
- providing regulatory relief to industry by:
 - deregulating cash-in-transit services, insurance intermediaries and general insurance providers
 - clarifying customer due diligence obligations relating to correspondent banking relationships and broadening the scope of these relationships
 - qualifying the scope of the term ‘in the course of carrying on a business’ in relation to certain provisions in the AML/CTF Act, and
 - allowing reporting entities to share information with other reporting entities within a corporate group as well as within a designated business group to manage their ML/TF risks associated with common customers without breaching the tipping-off provisions in the AML/CTF Act;
- strengthening AUSTRAC’s investigation and enforcement powers by:
 - giving the AUSTRAC CEO the power to issue infringement notices for contraventions relating to carrying out customer identification procedures, providing suspicious matter, threshold transaction and international funds transfer instruction reports and failures to comply with a section 49 notice, and
 - allowing the AUSTRAC CEO to issue a remedial direction to a reporting entity to retrospectively comply with an obligation that has been breached, for example a back log of transaction reports;
- revising the definitions of ‘investigating officer’, ‘signatory’ and ‘stored value card’ and including a definition of ‘betting instrument’, and
- clarifying other regulatory matters, including specific matters that the AUSTRAC CEO must take into account when determining exemptions, with the level of ML and TF risk posed being the prime consideration.

AUSTRAC is continuing to work with the Financial Crime Section within the Department of Home Affairs (previously within the Attorney-General’s Department) on the planning and preparation of further phases of reform arising from the recommendations contained in the report of the statutory review.

The recommendations are designed to deliver a simpler, streamlined and stronger AML/CTF regime to mitigate Australia’s ML/TF risks and provide a framework for future AML/CTF reform in Australia.

International engagement

AUSTRAC has maintained its international engagement and partnerships, in particular through programs and engagement with Australia’s neighbouring countries. AUSTRAC co-hosted with Malaysia the third annual Counter-Terrorist Financing Summit in November 2017 and hosted the ASEAN – Australia codeathon in Sydney in March 2018. Underpinning forums such as these are a number of operational working groups, drawing together counterparts from Singapore, Malaysia,

Brunei, Philippines and Thailand around common issues such as cross border cash movements, collaboration on technology initiatives, community outreach and analyst exchange programs.

Globally, AUSTRAC is also taking a leadership role in forums that materially contribute tangible and practical outcomes to increase international information and intelligence exchanges and cooperation. For example, AUSTRAC is the current Co-Chair of the Financial Action Task Force's Risk Trends and Methods Group, Chair of the Egmont Group's Information Exchange Working Group (IEWG) and the Chair of the International Supervisors Forum (ISF). AUSTRAC is also an observer member of the Middle East and North Africa Region FATF style regional body, MENAFATF, and Co-Chairs the APG's Mutual Evaluation Working Group.

AUSTRAC has developed Memoranda of Understanding (MoU) with Financial Intelligence Units (FIU's) globally. MoU's provide the mechanism to share intelligence with other countries. Currently, AUSTRAC is developing regulatory MoU's with key countries to enhance compliance and criminal deterrence in a rapidly transforming global landscape.

Industry sector-specific ML/TF risk assessments and guidance material

AUSTRAC has continued to publish industry sector-specific ML/TF risk assessments. These reports are an important collaborative undertaking between industry and government to discover and better understand contemporary ML/TF risks and responses to mitigate those risks. These risk assessments have prompted industry to undertake reviews, implement new controls to mitigate criminal misuse, and have raised awareness with boards, other senior staff and business lines. The risk assessments have also led to an increase in the number of SMRs being submitted to AUSTRAC, thereby increasing the pool of available intelligence for intelligence analysts at AUSTRAC and our partner agencies.

The following additional ML/TF risk assessments were published in the past year on the AUSTRAC website to assist industry to understand and respond to criminal threats and vulnerabilities:

- *Australia's Securities and Derivatives Sector – ML/TF Risk Assessment*
- *Australia's Non-profit organisations Sector – ML/TF Risk Assessment*
- *Remittance Corridors – Australia to Pacific Island countries – ML/TF Risk Assessment*
- *Regional Not-for-Profit Sector – ML/TF Risk Assessment*

AUSTRAC has also continued to expand and enhance its Compliance Guide. Recent updates include the following:

- Sector specific guidance for the pubs and clubs sector
- Sector specific guidance for the digital currency exchange sector
- Guidance on the obligations for registration for digital currency exchanges
- An amendment that provides clarity on the application of risk-based approaches to identifying categories of customers who do not have conventional forms of ID. The guidance issued on 30 June 2016 in relation to customers of Aboriginal and/or Torres Strait Islander heritage may also be applied to other categories of customers e.g. a person who has resettled in Australia as a refugee.
- Clarification of AUSTRAC's expectations with respect to the translation of customer identification information that is not in the English language.

AUSTRAC continues to maintain ongoing engagement with reporting entities on the quality of Suspicious Matter Reports (SMRs) as part of the compliance assessment process.

In 2017, AUSTRAC completed a campaign to assist the regulated population to produce better-quality SMRs. This campaign involved examining more than 1,500 SMRs submitted by the top 37 of AUSTRAC's higher-volume SMR reporters. The feedback provided to industry has led to increased awareness of SMR reporting obligations, better quality SMRs and the development of insights on emerging ML/TF risks and the value of the actionable intelligence extracted from SMRs.

AUSTRAC is currently focused on developing sector-specific guidance in conjunction with relevant industry bodies and representatives from reporting entities from the superannuation, bookmaking and online wagering sectors. This work follows the publication in early 2018 of dedicated AML/CTF guidance for the pubs and clubs and digital currency exchange sectors. AUSTRAC provides guidance to the remittance sector through webinars and compliance forum participation. This work will continue and extend to other regulated sectors.

AUSTRAC's operational budget

The information in this section outlines AUSTRAC's budgeted operational expenditure for 2018-19, itemised according to the agency's key capabilities. As far as possible it has been presented in a manner consistent with 2017-18, in order to facilitate a clearer understanding of areas where funding allocations have varied between years.

Further information regarding budgeted expenditure is published in [AUSTRAC's 2018-19 Portfolio Budget Statement](#).

AUSTRAC's 2018–19 operational expenditure by key capabilities

AUSTRAC's operating budget of \$80.527 million for 2018-19 represents an increase of \$12.323 million over the previous year (\$68.204 million).

The increase is a result of additional funding measures announced in the Mid-Year Economic and Fiscal Outlook (MYEFO) in December 2017. Details of the new funding measures are available in the [Portfolio Additional Estimates Statements 2017-18](#) for the Home Affairs Portfolio.

A large proportion of the increase is due to two specific programs:

1. Strengthening Australia's Defences Against Money Laundering and Terrorism Financing

Under the MYEFO statement of December 2017, AUSTRAC will receive additional funding of \$43.3 million over four years, commencing in the financial year 2017-2018. This measure is ongoing, and provides an amount of \$10.2 million per year beyond the first four years.

The additional funding will enable AUSTRAC to:

- expand its regulatory intelligence function to better identify and target emerging and prevailing money laundering and terrorism financing risks
- identify and respond to those businesses that operate illegally by failing to enrol or register with the agency
- support the agency in undertaking complex assessments and investigations into potential serious non-compliance with the AML/CTF Act, and
- increase its capacity to provide more comprehensive plain language guidance, education and support for the more than 14,000 businesses with AML/CTF obligations, to assist them build their AML/CTF compliance capability and prevent financial crime and terrorism financing.

The increase in departmental operating expenditure for 2018-19 under this program is \$7.383 million.

2. Confiscated assets account

AUSTRAC entered into an agreement in August 2017 whereby an amount of \$5.531 million will be provided over three years from the Confiscated Assets Account. The funding commenced in 2017-18, and is to be used to establish an international financial intelligence and regulatory network with key partner countries across Asia and the Middle East. The work undertaken will complement existing international networks by partner agencies.

AUSTRAC will strengthen Australia's defences against foreign threats through a combination of:

- contributing to and driving operational outcomes against transnational crime and terrorism financing, particularly in the Middle East and Asia
- hardening the AML/CTF systems and increasing the operational capability of partner countries
- influencing regional and international operational and policy frameworks, and
- the establishment of robust collaboration mechanisms such as those underpinning the AUSTRAC/PPATK CTF Summit menu of work.

The increase in departmental operating expenditure for 2018-19 under this program is \$2.075 million.

Comparison of estimated operational expenditure by key capabilities 2017-18 and 2018-19

The indicative internal budget allocations for 2018-19 are:

Capability	Consultation 2017–18		Indicative 2018-19	
	\$'000	%	\$'000	%
Compliance	\$11,044	16.2%	\$13,547	16.8%
Intelligence	\$9,542	14.0%	\$12,439	15.4%
Regulatory framework	\$5,218	7.6%	\$6,363	7.9%
International	\$3,814	5.6%	\$5,300	6.6%
Sub-total Operations	\$29,618	43.4%	\$37,649	46.7%
Innovation and technology	\$12,009	17.6%	\$15,130	18.8%
Corporate support	\$16,340	24.0%	\$16,637	20.7%
Executive	\$4,220	6.2%	\$4,485	5.6%
Non-cash – depreciation and amortisation	\$6,017	8.8%	\$6,626	8.2%
Total expenses	\$68,204	100.0%	\$80,527	100.0%

As a result of the two new programs noted above, AUSTRAC is able to increase the allocation of funding to front-line operational areas. It is estimated that this will be done whilst holding the expenditure in the areas of corporate support, executive and depreciation relatively constant in absolute dollar terms.

The program for Strengthening Australia's Defences Against Money Laundering and Terrorism Financing has increased the funding available for the two core areas of Compliance and Intelligence. The estimated budget for both of these areas has increased in dollar terms and also in terms of the percentage share of AUSTRAC's budget that is being allocated to these capabilities.

This measure has also increased funding available for the Innovation and Technology capability, allowing AUSTRAC to build new capacity in key IT systems that support the expanded Compliance and Intelligence capabilities.

The increased allocation for the regulatory framework capability reflects the component of the measure related to the enforcement aspect of responding to businesses that operate illegally by failing to enrol or register with AUSTRAC. The allocation also reflects the current level of resourcing that has been allocated to the implementation of the recommendations of the review of the AML/CTF Act.

The increase in AUSTRAC's international engagements is directly related to the additional funding received from the Confiscated Assets Account. AUSTRAC is also continuing with its resourcing responsibilities in multiple international forums, maintaining the initiatives built during 2017-18.

The allocation for Corporate Support is expected to remain constant in dollar terms, with little movement between 2017-18 and 2018-19. This outcome is in the expectation that the new funding measures can be successfully deployed without the need to expand AUSTRAC's existing corporate capabilities.

The budgeted depreciation charge for 2018-19 is reconciled to AUSTRAC's fixed assets register. The amount allows for the retirement of some older internally developed software, as well as the commissioning of some new assets that are expected to be completed during the next 12 months.

Finalisation of AUSTRAC's internal budgets for 2018–19 is expected to be undertaken during the period May - June 2018.

Levy to be recovered in 2018-19

AUSTRAC's operations comprise the following types of expenditure:

- expenses covered by appropriations from Government
- expenses covered by funding from external parties, and
- non-cash expenses in the nature of depreciation and amortisation.

All expenses incurred in the course of delivering externally funded programs are excluded from the industry contribution levy and are accounted for separately in AUSTRAC's financial records. These programs include, for example, those funded by the Department of Foreign Affairs and Trade (DFAT) to deliver technical assistance and training to counterpart regulators and FIUs in neighbouring or regional countries.

Expenditure associated with the new funding received from the Confiscated Assets Account (categorised in the budget as own-source revenue) is also excluded from the levy.

The table below sets out the forward estimates of the industry contribution amounts to be recovered in the years 2018–19 to 2021–22, in accordance with the agency's 2018–19 Portfolio Budget Statement. Consistent with previous years, the recovery of AUSTRAC's capital costs is based on the annual depreciation charge rather than on annual capital expenditure. This allows for a more predictable and steady levy amount. AUSTRAC considers this methodology preferable to the recovery of actual capital expenditure in the year it is incurred.

Forward estimates as per 2018–19 Portfolio Budget Statements (PBS)

(\$000)	2018–19	2019–20	2020-21	2021-22
Total expenses = X	80,527	76,951	75,791	77,232
Total own source income = Y	5,488	2,648	605	608
Net cost of services = X – Y	75,039	74,303	75,186	76,624

Represented By:

Revenue from Government – base appropriation	68,413	67,666	67,430	67,773
Depreciation and amortisation	6,626	6,637	7,756	8,851
Total industry contribution amount to be recovered	75,039	74,303	75,186	76,624

The 2018-19 levy year presents two distinct differences from prior levy years. These differences will affect:

- The total amount to be recovered for 2018-19, and
- The way in which the recoverable amount will be apportioned amongst reporting entities.

Total amount to be recovered

The total amount to be recovered for 2018-19 includes the budgeted operating expenditure for the 2018-19 year, plus the additional government funding provided to AUSTRAC for the current year (ie 2017-18). The additional funding for 2017-18 was announced in MYEFO in December 2017, after the 2017-18 levy invoices had been issued.

Industry has previously requested that AUSTRAC issue only one levy invoice per year. In response to this request, AUSTRAC will recover the additional 2017-18 funding as part of the levy process for 2018-19.

The total amount to be recovered in 2018-19 is:

	\$'000
Recoverable amount as per 2018-19 PBS:	75,039
Add Additional departmental funding for 2017-18 as per MYEFO 2017:	
- Strengthening Australia's Defences Against Money Laundering and Terrorism Financing:	
Departmental expense	1,339
Depreciation	114
- Other estimate variation	1,833
Total recoverable amount for 2018-19	78,325

Apportionment of total recoverable amount

At the time of considering the funding proposal for Strengthening Australia's Defences Against Money Laundering and Terrorism Financing, the Australian Government decided that the costs of this new program would be offset through a higher Industry Contribution levy on the largest reporting entities.

The largest reporting entities will be determined from the total value of transaction reports lodged by an entity during the calendar year preceding each census day. For 2018-19, the largest reporting

entities are those that have lodged leviable reports during calendar 2017 with a total value of \$15 billion or more. The additional levy will be divided between those entities on a pro-rata basis according to total transaction report value.

The entities likely to fall into this category were contacted directly by AUSTRAC during December 2017, and again in February 2018, to advise of the additional levy that will be payable and to provide an estimated value of the additional levy amount for 2018-19.

In order to implement the Government's decision, the levy calculation process for 2018-19 will require the total recoverable amount to be separated into two parts:

- Part 1 – the recoverable amount excluding expenditure for the new program: Strengthening Australia's Defences Against Money Laundering and Terrorism Financing. The Part 1 amount will be allocated to leviable entities (including the largest reporting entities) in a manner consistent with prior years.
- Part 2 – the recoverable amount comprising expenditure for the new program: Strengthening Australia's Defences Against Money Laundering and Terrorism Financing. This amount will be pro-rated across the largest reporting entities, and the additional levy added to the levy for those entities that is calculated in Part 1.

The additional levy calculated in Part 2 will result in two different transaction report value factors, with the higher factor being applied to the largest reporting entities.

The two parts of the recoverable amount for 2018-19 are:

	\$'000
Part 1 Recoverable amount excluding new program	69,169
Part 2 Recoverable amount relating to the new program:	
- Operating expenses 2017-18	1,339
- Operating expenses 2018-19	7,383
- Depreciation expense 2017-18	114
- Depreciation expense 2018-19	320
Sub-total Part 2	9,156
Total recoverable amount for 2018-19	78,325

Statutory Review of the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*

The *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011* (the Collection Act) commenced on 22 October 2014 and contains a mechanism that requires the Minister to cause an independent review of the operation of the levy to be undertaken as soon as possible after the fourth anniversary of the commencement of the Collection Act.

The fourth anniversary is 22 October 2018. Whilst the independent review will not impact the calculation of the levy for the 2018-19 levy year, AUSTRAC felt it would be appropriate to reference the review in this round of consultation.

The person appointed to undertake the review must consult with industry participants about the impact of the levy and the costs of compliance. The purpose of the review is to ensure that the operation of the industry contribution, including the methodology used to calculate instalments of the levy and the impact of the levy on industry, is appropriately reviewed, and provide the opportunity for improvements to the arrangements, if warranted.

The report must be given to the Minister within six months after the fourth anniversary of commencement of the Collection Act. The report must be tabled in each House of Parliament within 15 sitting days of the Minister receiving the report.

AUSTRAC will keep industry apprised of all developments in this matter.

Section 2 – AUSTRAC Industry Contribution for 2018–19

Industry contribution charging model

The charging model developed for the introduction of the industry contribution levy comprised two components:

- an earnings component, and
- a component for transaction reporting activities.

AUSTRAC is proposing that these two components continue to be used for the charging model for the 2018–19 levy year.

Of AUSTRAC's total regulated population of more than 14,000 entities, approximately 570 entities will be required to pay the levy in 2018–19. In this context, it should be noted that the government's objective continues to be that small businesses should be exempt from the industry contribution to minimise their regulatory burden.

Earnings component

The earnings component applies to leviable entities with annual earnings of \$100 million or more.

The calculation of earnings is based on the most recently published annual results of an entity on the census day. If an entity is part of a group and is related to other leviable entities, the earnings component is based on the total earnings of the group and then divided among the individual group members.

It is necessary for AUSTRAC to collect information concerning the total earnings from reporting entities in order to determine:

- those entities which are required to pay the earnings component of the industry contribution; and
- the amount of the earnings component those entities are required to pay.

If you are a reporting entity that is required to pay the levy (a leviable entity) it is a requirement to provide the entity's earnings information at the time of enrolment with AUSTRAC. Each year the reporting entity is required to update this earnings figure within 14 days of finalising and publishing the annual financial reports or statements.

The definition of 'earnings' used for 2018–19 is unchanged from previous years. Refer to the ['Calculating earnings fact sheet'](#) for further information.

Table 2: Earnings component, indicative amounts for the 2018–19 financial year

Earnings component	Actual 2016–17	Actual 2017–18	Indicative 2018–19
Factor	Fixed – 0.043%	Fixed – 0.043%	Fixed – 0.047%
Earnings threshold	\$100 million Minimum earnings component: \$43,000	\$100 million Minimum earnings component: \$43,000	\$100 million Minimum earnings component: \$47,000
Maximum earnings charge	\$1,000,000 Applies to earnings equal to or higher than \$2.330 billion	\$1,000,000 Applies to earnings equal to or higher than \$2.330 billion	\$1,500,000 Applies to earnings equal to or higher than \$3.190 billion
Definition of earnings	Australian entities: Total earnings Foreign entities: Based on domestic earnings from operations in Australia	Australian entities: Total earnings Foreign entities: Based on domestic earnings from operations in Australia	Australian entities: Total earnings Foreign entities: Based on domestic earnings from operations in Australia

Transaction reporting component

The transaction reporting component applies to leviable entities that lodge transaction reports. This includes threshold transaction reports (TTRs) and international funds transfer instruction (IFTI) reports submitted by an entity during the previous calendar year (not financial year).

The total transaction reporting component payable by an entity comprises the following two elements:

- **volume** – comprising a set unit cost per report, multiplied by the number of reports submitted by the entity during the January to December period in the previous calendar year, and
- **value** – comprising a set unit cost multiplied by the value of the reports submitted during the January to December period in the previous calendar year.

For 2018-19, there will be two different value elements. The higher report value element will apply to reporting entities who have lodged reports with AUSTRAC with a total annual value exceeding \$15 billion.

The transaction reporting component for the 2018–19 levy year will be based on transaction reports lodged during the 2017 calendar year – that is, from 1 January to 31 December 2017.

Table 3: Transaction reporting component indicative amounts for 2018–19 financial year

Transaction Report Component	Actual 2016–17	Actual 2017–18	Indicative 2018–19
Transaction report volume	\$0.012 per report	\$0.012 per report	\$0.012 per report
Transaction report value	\$0.0000105436	\$0.0000110412	\$0.0000098488
Transaction report value for reporting entities with total annual report value of \$15 billion or more	Not applicable	Not applicable	\$0.0000115977
Maximum transaction reporting charge	None	None	None

Minimum charge and maximum amount payable

Table 4: Indicative minimum charge and maximum amount payable for 2018–19 financial year

Charging model component	Actual 2016–17	Actual 2017–18	Indicative 2018–19
Minimum charge	\$1,000	\$1,000	\$1,000
Maximum amount payable	\$9,926,801.15	\$9,814,148.11	\$10,497,020.54
Test for applying maximum amount	Reporting entity or billable group has earnings of \$5 billion or more	Reporting entity or billable group has earnings of \$5 billion or more	Reporting entity or billable group has earnings of \$5 billion or more

Important note: The final contribution amount payable per entity will depend on the information submitted to AUSTRAC on the census day for the 2018–19 financial year, which is **1 July 2018**.

Who is required to pay the industry contribution?

A *leviable entity* is a reporting entity that is required to be enrolled with AUSTRAC and that is not an exempt entity on the census day for a financial year. A full definition of leviable entity can be found in the [Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011](#) (Industry Contribution Act).

If an entity's enrolment information as recorded in AUSTRAC Online (that is, in the AUSTRAC Business Profile Form, or ABPF) indicates that an entity is not an 'exempt entity' on census day, the industry contribution levy will be payable.

Exempt entities include the following classes of entity:

- An entity that is an affiliate of a registered remittance network and did not provide a designated service in any other capacity (that is, where the affiliate does not provide any designated services under the AML/CTF Act except as a remittance affiliate). Affiliates are

excluded on the basis that AUSTRAC's primary regulatory relationship is with the registered remittance network provider rather than with individual affiliates.

- An entity that has been exempted from Part 7 of the AML/CTF Act.
- An entity that, on the census day for the financial year 2018–19 (1 July 2018), is a 'Market Generator' within the meaning of the National Electricity Rules.
- An entity that is a body corporate established for a public purpose by an Act passed by the Parliament of the Commonwealth of Australia.

Invoicing for the 2018–19 financial year

Subject to finalising this consultation process, AUSTRAC expects invoices for the industry contribution for 2018–19 will be issued during the first quarter of the 2018–19 financial year.

A reporting entity that will be liable to pay the levy for 2018–19 is an entity that is required to be enrolled with AUSTRAC on the census day, 1 July 2018.

Each entity is responsible for ensuring its enrolment information is correct at the census day.

Ministerial Determination

Subsection 9(1) of the Industry Contribution Act provides for the Minister, by legislative instrument, to determine the amount of levy payable by a liable entity for a financial year. Pursuant to AUSTRAC moving into the newly created Home Affairs portfolio, the determination will likely be made by the Minister for Law Enforcement and Cyber Security.

Subsection 9(3) of the Industry Contribution Act provides that a Ministerial Determination made for the purposes of subsection 9(1) may do one or more of the following:

- specify an amount or a method for determining an amount
- specify different amounts or methods for different classes of liable entities
- specify a nil amount or a method resulting in a nil amount.

The draft Ministerial Determination at **Attachment 1** determines the amount of instalment of the industry contribution for 2018–19.

The draft Explanatory Statement for the Ministerial Determination is at **Attachment 2**.

Attachment 1: Draft Ministerial Determination



Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2018 (No. 1)¹

Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011

I, ANGUS TAYLOR, Minister for Law Enforcement and Cyber Security, make this Determination under subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*.

[Signed]

ANGUS TAYLOR
Minister for Law Enforcement and Cyber Security

¹ All legislative instruments and compilations are registered on the Federal Register of Legislation, managed in accordance with the *Legislation Act 2003*. See [Federal Register of Legislation](#).

1 Name of Determination

This Determination is the *Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2018 (No. 1)*.

2 Commencement

This Determination commences on the day after it is registered.

3 Definitions

(1) In this Determination:

the Act means the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011*.

ADI (short for authorised deposit-taking institution) has the same meaning as in the AML/CTF Act.

AML/CTF Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

acquired refers to the acquisition of the business of an entity.

AUSTRAC has the same meaning as in the AML/CTF Act.

AUSTRAC CEO has the same meaning as in the AML/CTF Act.

census day, in relation to the financial year, has the same meaning as in the Act.

earnings, in relation to a leviable entity, means:

- (a) if the leviable entity is an ADI or a registered financial corporation – the total profit before tax, depreciation and amortisation (PBTDA), not adjusted for significant items; or
- (b) if the leviable entity is a member of a group of leviable entities and any member of that group is an ADI or a registered financial corporation – the total profit before tax, depreciation and amortisation (PBTDA) not adjusted for significant items; or
- (c) in any other case – the total earnings before tax, interest, depreciation and amortisation (EBITDA) not adjusted for significant items;

of the leviable entity, for a year ending in the previous financial year, the details of which have been recorded in accordance with the requirements for the roll maintained by the AUSTRAC CEO under section 51C of the AML/CTF Act.

Note 1: The above definition recognises that leviable entities may have annual accounting periods that end on other than 30 June in any year.

Note 2: The operation of the above definition in relation to leviable entities that are foreign companies or subsidiaries of foreign companies is affected by subitem (2) of this item 3.

financial year means the financial year beginning on 1 July 2018.

foreign company has the same meaning as in the *Corporations Act 2001*.

group of leviable entities means all leviable entities that are related bodies corporate.

leviable entity, in relation to the financial year, has the same meaning as in the Act.

leviable report, in relation to a leviable entity, means one of the following reports given to the AUSTRAC CEO during the calendar year beginning on 1 January 2017:

- (a) a report given by the leviable entity under subsections 43(2) or 45(2) of the AML/CTF Act (including a report given by the leviable entity in the form required for subsections 43(2) or 45(2), whether or not such a report was required to be given under either of those subsections); or
- (b) a report of the type referred to in paragraph (a) that was given by another leviable entity that, as at the time the report was given, was a remittance affiliate of the leviable entity; or
- (c) a report of the type referred to in paragraph (a) that was given by another leviable entity that, prior to the census day, was acquired by the leviable entity.

National Electricity Rules means the Rules made under the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996 (SA)*.

previous financial year means the financial year beginning on 1 July 2017.

registered financial corporation has the same meaning as *registered entity* in the *Financial Sector (Collection of Data) Act 2001*.

related bodies corporate has the same meaning as in the *Corporations Act 2001*.

remittance affiliate means a leviable entity that:

- (a) provides a designated service covered by item 31 or 32 of table 1 in section 6 of the AML/CTF Act; and
- (b) provides that service as part of a network of persons of a kind referred to in item 32A of that table operated by another leviable entity.

subsidiary has the same meaning as in the *Corporations Act 2001*.

- (2) A reference in this Determination to the total profit or total earnings of a leviable entity that is a foreign company or a subsidiary of a foreign company is a reference to the total profit or total earnings of the leviable entity which are derived from operations in Australia.

4 Amount of instalment of levy

- (1) Subitem (2) has effect subject to subitems (3), (4), (5), (6) and (7).
- (2) For subsection 9(1) of the Act, the amount of the instalment of levy payable by a leviable entity for the financial year is to be calculated in accordance with the following formula:

earnings component + transaction reporting component

Payment threshold

- (3) If the amount calculated in relation to a leviable entity under subitem (2) is less than \$1,000, then, for subsection 9(1) of the Act, the amount of the instalment of levy payable by the leviable entity for the financial year is nil.

Maximum payment amount

- (4) For subsection 9(1) of the Act, the amount of the instalment of levy payable by a liable entity for the financial year is:
- (a) for a liable entity that is not a part of a group of liable entities and has earnings of greater than \$5,000,000,000 – \$10,497,020.54; or
 - (b) for a liable entity that is part of a group of liable entities the total earnings for which are greater than \$5,000,000,000 – \$10,497,020.54 divided by the number of liable entities in the group.

Other

- (5) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that, in the previous financial year:
- (a) provided a designated service or services only in the capacity of a remittance affiliate; and
 - (b) did not provide a designated service in any other capacity;
- is nil.
- (6) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that, on the census day for the financial year, was a 'Market Generator' within the meaning of the National Electricity Rules, is nil.
- (7) For subsection 9(1) of the Act, the amount of the instalment of levy payable for the financial year by a liable entity that is a body corporate established for a public purpose by an Act passed by the Parliament of the Commonwealth is nil.

5 Earnings component

- (1) Subitem (2) has effect subject to subitems (3) and (4).
- (2) The earnings component for a liable entity is:
- (a) for a liable entity that is not part of a group of liable entities – 0.047 per cent of the earnings for the liable entity; or
 - (b) for a liable entity that is part of a group of liable entities – 0.047 per cent of the total earnings for the group of liable entities, divided by the number of liable entities in the group.

Earnings component threshold

- (3) The earnings component for a liable entity:
- (a) that is not part of a group of liable entities and has earnings of less than \$100,000,000; or
 - (b) that is part of a group of liable entities the total earnings for which are less than \$100,000,000;
- is nil.

Earnings component cap

- (4) If the earnings component calculated for a liable entity under subitem (2) is greater than \$1,500,000, then:

- (a) for a leviable entity that is not part of a group of leviable entities – the earnings component for the leviable entity is \$1,500,000; or
- (b) for a leviable entity that is part of a group of leviable entities – the earnings component for the leviable entity is \$1,500,000, divided by the number of leviable entities in the group.

6 Transaction reporting component

- (1) Subitem (2) has effect subject to subitem (3).
- (2) The transaction reporting component for a leviable entity is to be calculated in accordance with the following formula:
 - (a) if the total value of the leviable reports that the entity gave in the 2017 calendar year was less than \$15 billion:

1.2 cents for each leviable report	plus	0.00098488 per cent of the value of the leviable report
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or
 - (b) if the total value of the leviable reports that the entity gave in the 2017 calendar year was \$15 billion or more:

1.2 cents for each leviable report	plus	0.00115977 per cent of the value of the leviable report
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- (3) If a leviable report of the type referred to in paragraph (b) or (c) of the definition of *leviable report* is used in the calculation of a leviable entity's transaction reporting component, the same report cannot be used in the calculation of any other leviable entity's transaction reporting component.
- (4) In this item, a reference to the *value of a leviable report* is a reference to the value of the transaction to which the leviable report relates.

Attachment 2: Draft Explanatory Statement to the Ministerial Determination

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Law Enforcement and Cyber Security

Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011
Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2018 (No. 1)

OUTLINE

The Determination is made by the Minister for Justice under subsection 9(1) of the *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011* (Industry Contribution Act) for the financial year 1 July 2018 to 30 June 2019 (2018–19).

Section 8 of the Industry Contribution Act imposes a levy on certain entities ('leviable entities') regulated and supervised by the Australian Transaction Reports and Analysis Centre (AUSTRAC). The purpose of the levy is to recover the costs of the performance of AUSTRAC's regulatory and intelligence functions. It is intended that the levy will recover 100% of those costs (including depreciation) in 2018–19.

Section 7 of the *Australian Transaction Reports and Analysis Centre Industry Contribution (Collection) Act 2011* provides that the levy is payable in instalments. The amount of each instalment is dealt with in section 9 of the Industry Contribution Act. The purpose of making the levy payable in instalments is to enable more than one instalment to be made payable in a single financial year, if this is necessary to recover AUSTRAC's costs. For the 2018–19 financial year, only one instalment of levy will be payable.

Subsection 9(1) of the Industry Contribution Act provides for the Minister, by legislative instrument, to determine the amount of an instalment of levy payable by a leviable entity for a financial year. Paragraph 9(2)(a) requires the Minister to make at least one determination under subsection (1) for each financial year. Paragraph 9(2)(b) puts a cap, called the 'statutory limit', on the sum of all amounts of all instalments of levy payable by all leviable entities for a financial year. The term 'statutory limit' is defined by subsection 7(1) of the Industry Contribution Act to mean, in relation to a financial year, 'the amount that is 2 times the sum of all amounts appropriated by the Parliament for the purposes of AUSTRAC for the financial year'.

The Determination determines the amount of the instalment of levy for 2018–19.

Subsection 9(3) of the Industry Contribution Act provides that a determination made for the purposes of subsection 9(1) may do one or more of the following:

- specify an amount or a method for determining an amount;
- specify different amounts or methods for different classes of leviable entities;
- specify a nil amount or a method resulting in a nil amount;

- despite subsection 12(2) of the *Legislation Act 2003*, specify methods that refer to acts done or circumstances existing before either the commencement of the determination or the commencement of the Industry Contribution Act, or both.

Subsection 9(4) of the Industry Contribution Act provides that a determination made for the purposes of subsection 9(1) for a financial year may, despite subsection 12(2) of the *Legislation Act 2003*, be made after the beginning of that financial year.

Details of the Determination are set out below. The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

CONSULTATION

The development and refinement of the structure of the industry contribution charging model was undertaken during the 2014–15 financial year, following the Government's budget announcement on 13 May 2014 that it was replacing the cost recovery arrangements administered by AUSTRAC (known as the AUSTRAC supervisory levy) with an industry contribution levy to fund AUSTRAC's regulatory and financial intelligence functions.

Three separate rounds of stakeholder consultation were undertaken, during which AUSTRAC released three stakeholder consultation papers:

- 26 June 2014
- 25 September 2014, and
- 3 December 2014.

Following this extensive consultation process, the structure of the charging model for the industry contribution levy was finalised. Details of the model were published on the AUSTRAC website on 28 January 2015.

The underlying structure of the charging model for the 2018–19 financial year is unchanged from the model that was used for 2014–15 and subsequent years. There have been some changes to the factors for individual components, in order to reflect differences in the amount to be recovered from leviable entities each levy year.

REGULATORY IMPACT STATEMENT

AUSTRAC has been advised that a Regulatory Impact Statement (RIS) is not required. The industry contribution arrangements are a revenue measure, and as such fall outside the requirement to prepare a RIS.

DETAILS OF THE DETERMINATION

Item 1 – Name of Determination

This item sets out the name of the Determination as the *Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2018 (No. 1)*.

Item 2 – Commencement

This item provides that the Determination will commence the day after it is registered as a legislative instrument.

Item 3 – Definitions

Subitem 3(1) defines terms used in the Determination, the more significant of which are:

- ‘census day’. This term is defined, in relation to 2018–19, to have the same meaning as in the Industry Contribution Act. The census day for the 2018–19 financial year is 1 July 2018.
- ‘earnings’. The amount of a liable entity’s ‘earnings’, as defined, is used in the Determination to identify liable entities that are liable to pay the maximum amount of the instalment of levy for 2018–19, under subitem 4(4) of the Determination, and, for other liable entities, in calculating the earnings component of the instalment of levy, under item 5 of the Determination. For a liable entity that is an authorised deposit-taking institution or a registered financial corporation, or is part of a group of liable entities that includes such an entity, ‘earnings’ means total profit before tax, depreciation and amortisation (PBTDA). For all other entities the measure is total earnings before interest, tax, depreciation and amortisation (EBITDA). Neither PBTDA nor EBITDA is to be adjusted for significant items.
- ‘liable entity’. This term is defined, in relation to 2018–19, to have the same meaning as in the Industry Contribution Act.
- ‘liable report’. This means, in relation to a liable entity, a report given to the AUSTRAC CEO in the 2016 calendar year under subsection 43(2) or 45(2) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) (or in the form required for subsection 43(2) or 45(2), whether or not such a report was required to be given under either subsection), being:
 - a report given by the liable entity; or
 - a report given by a remittance affiliate of the liable entity; or
 - a report given by another liable entity that was acquired by the liable entity prior to the census day.

Sections 43 and 45 of the AML/CTF Act respectively deal with threshold transaction reports (TTRs) and international funds transfer instructions reports (IFTIs).

- ‘National Electricity Rules’. This means the Rules made under the *National Electricity Law* set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA).
- ‘remittance affiliate’. This means a liable entity that provides a designated service covered by item 31 or 32 of table 1 in section 6 of the AML/CTF Act as part of a network of persons of a kind referred to in item 32A of that table operated by another liable entity.
- ‘registered financial corporation’. This term is defined to have the same meaning as the term ‘registered entity’ in the *Financial Sector (Collection of Data) Act 2001*.

Subitem 3(2) limits references in the Determination to the total profit or total earnings of a liable entity that is a foreign corporation or a subsidiary of a foreign corporation to the total profit or total earnings of the liable entity which are derived from operations in Australia. This affects the operation of the definition of the term ‘earnings’ in subitem 3(1) of the Determination.

Item 4 – Amount of instalment of levy

Item 4 sets out a general method for determining the amount of the instalment of levy payable by a liable entity for 2018–19, which is subject to five exceptions.

The general method is specified in subitem 4(2). It involves adding together the ‘earnings component’ for the liable entity, dealt with in item 5 of the Determination, and the ‘transaction reporting component’ for the liable entity, dealt with in item 6 of the Determination.

The exceptions to the general method are specified in subitems 4(3), (4), (5), (6) and (7).

Subitem 4(3) provides a payment threshold of \$1,000 for the levy instalment. If the amount calculated in relation to a leviable entity under subitem (2) is less than \$1,000, then the amount payable by that entity is nil.

Subitem 4(4) provides a maximum payment amount for the levy instalment, applicable to those leviable entities with earnings greater than \$5,000,000,000. The amount payable by a leviable entity that is not part of a group of leviable entities and has earnings of greater than \$5,000,000,000 is \$10,497,020.54. The amount payable by a leviable entity that is part of a group of leviable entities the total earnings for which are greater than \$5,000,000,000 is \$10,497,020.54 divided by the number of leviable entities in the group.

Subitem 4(5) sets the levy instalment at nil for a leviable entity that, in the financial year 1 July 2017 to 30 June 2018 (2017-18), provided designated services only in the capacity of a remittance affiliate. Entities to which subitem 4(5) applies have no amount payable on the basis that AUSTRAC's primary regulatory relationship will be with remittance network providers rather than remittance affiliates.

Subitem 4(6) sets the levy instalment at nil for a leviable entity that, on the census day, was a 'Market Generator' within the meaning of the National Electricity Rules.

Subitem 4(7) sets the levy instalment at nil for a leviable entity that is a body corporate established for a public purpose by an Act passed by the Commonwealth Parliament.

Item 5 – Earnings component

Item 5 sets out a general method for determining the earnings component for a leviable entity, which is subject to two exceptions.

The general method is specified in subitem 5(2). For a leviable entity that is not part of a group of leviable entities, the general method involves multiplying the earnings for the leviable entity by 0.047%. For a leviable entity that is part of a group of leviable entities, the general method involves multiplying the total earnings for the group by 0.047% and dividing the result by the number of leviable entities in the group.

The exceptions to the general method are specified in subitems 5(3) and (4).

Subitem 5(3) provides a payment threshold for the earnings component. It does so by setting the earning component at nil for a leviable entity that is not part of a group of leviable entities and has earnings of less than \$100,000,000, or a leviable entity that is part of a group of leviable entities the total earnings for which are less than \$100,000,000.

Subitem 5(4) provides a payment cap for the earnings component for a leviable entity if the amount calculated for that entity under subitem (2) is greater than \$1,500,000. For a leviable entity to which subitem 5(4) applies that is not part of a group of leviable entities, the earnings component is set at \$1,500,000. For a leviable entity to which subitem 5(4) applies that is part of a group of leviable entities, the earnings component is set at \$1,500,000 divided by the number of leviable entities in the group.

Item 6 – Transaction reporting component

The transaction reporting component is calculated by reference to the TTRs and IFTIs that were lodged with AUSTRAC during the 2017 calendar year.

Subitem 6(2) contains a formula for working out a leviable entity's transaction reporting component. The formula is made up of two elements, one for report volume and one for report value. The report value element that is to be applied is dependent on the total value of reports lodged with AUSTRAC during the 2017 calendar year.

A higher report value element applies to entities that lodged reports with a total annual value of \$15 billion or more. This reflects the government's decision to recover costs associated with the program: Strengthening Australia's Defences Against Money Laundering and Terrorism Financing from AUSTRAC's largest reporting entities.

The transaction reporting component is calculated as follows:

- For entities with a total annual report value of less than \$15 billion:
 - 1.2 cents for each leviable report made by a leviable entity to the AUSTRAC CEO in the 2017 calendar year; and
 - 0.00098488 per cent of the value of the transaction to which the leviable report relates.
- For entities with a total annual report value of \$15 billion or more:
 - 1.2 cents for each leviable report made by a leviable entity to the AUSTRAC CEO in the 2017 calendar year; and
 - 0.00115977 per cent of the value of the transaction to which the leviable report relates.

Subitem 6(3) prevents 'double-counting' of leviable reports in the application of the formula in subitem (2) to different leviable entities.

Subitem 6(4) is included to avoid doubt as to what is meant by the 'value of a leviable report' in subitem (2).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2018 (No. 1)

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The *Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011* (Industry Contribution Act) imposes a levy on certain entities ('leviable entities') which are regulated under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and supervised by the Australian Transaction Reports and Analysis Centre. Subsection 9(1) of the Industry Contribution Act provides for the Minister, by legislative instrument, to determine the amount of an instalment of levy payable by a leviable entity for a financial year.

This Determination is made by the Minister for Justice under subsection 9(1) of the Industry Contribution Act for the financial year 1 July 2018 to 30 June 2019. It specifies the amount, or the method for determining the amount, of the first instalment of levy payable by each leviable entity for the financial year. Different amounts and methods are specified for different classes of leviable entities.

Human rights implications

This Determination does not engage any of the applicable rights or freedoms.

Conclusion

This Determination is compatible with human rights as it does not raise any human rights issues.

ANGUS TAYLOR
Minister for Law Enforcement and Cyber Security